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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,268	08/28/2000	Michael S. Chartier	042390.P219	6762

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EXAMINER

SCHNEIDER, JOSHUA D

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/649,268

Applicant(s)

CHARTIER, MICHAEL S.

Examiner

Joshua D. Schneider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Response to Arguments***

1. In view of the appeal brief filed on 2/17/2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. The finality of the previous rejection has been withdrawn to address the concerns set forth by the applicant.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,748,084 to Isikoff in further view of the Advanced Configuration and Power Interface (ACPI) Specification by Microsoft, Intel, and Toshiba.

5. With regards to claims 1, 8, 18, and 19, the Isikoff reference teaches a beacon unit (Fig. 3) comprising a modem adapted to receive communication for future use by a user, a processor coupled to the modem (Fig. 4), and a memory coupled to the modem when the processor is inactive (column 3, line 62, through column 4, line 2, and column 9, lines 15-27). It is inherent that a user programs the processes of the modem, as there is no other way for the modem to be functional in such a manner. While Isikoff does not explicitly teach non-volatile memory, the beacon is battery backed and retains power even when power is removed from the main computer and processor (Figs. 3 and 4). It would have been obvious to one of ordinary skill in the art at the time of invention that the beacon memory of Isikoff is battery backed and is therefore nonvolatile. Isikoff does not specifically teach the processor being adapted to be periodically inactivated to reduce power consumption of a portable computing system. However, Advanced Configuration and Power Interface (ACPI) suspend states are notoriously well known in the art. This open specification initiative, developed jointly by Microsoft, Intel, and Toshiba, provides means of integrating power management to all parts of a PC, and includes suspend, suspend to RAM, and hibernate abilities. With this technology, peripherals can also activate a PC. It is clear from Isikoff that the modem is operational when the host processor is inactive (Fig. 4, column 9, lines 15-27), and that portions of the computer can be deactivated to conserve power (column 2, lines 12-14). Isikoff further teaches that some communications are logged to be handled at a later time, and that the beacon unit can store information either for later

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use when the host computer is powered up, or immediately executed (column 9, lines 23-27).

While it is not stated why the host processor is deactivated, it must be deactivated if it has to be powered up in order to be operational. It is notoriously well known in the art that utilizing the minimum amount of power in battery powered devices is desirable in order to maximize the amount of use before the battery must be charged or replaced. It would have been obvious to one of ordinary skill in the art at the time of invention to use the ACPI suspend and hibernate abilities the host computer and beacon modem of Isikoff to receive and store communication data while a main host processor is deactivated in order to conserve power in a portable computing system.

6. With further regards to claims 8 and 17, Isikoff teaches an activated modem processor which receives and stores data for future use by a user (Fig. 3, column 3, lines 62-65, and column 5, lines 54-49) when a first processor of the host computer is deactivated (Fig. 4, column 9, lines 15-27).

7. With regards to claim 2, Isikoff teaches a hard drive that is coupled to the processor (column 4, lines 15-20).

8. With regards to claim 3, Isikoff teaches the beacon/modem processor (Fig. 3, element 30) that operates independently of the main processor (column 9, lines 15-27).

9. With regards to claim 4, Isikoff teaches that the beacon communication handling section logs unimportant requests, when the main processor is inactive, to be handled at another time to save power (column 9, lines 15-32).

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10. With regards to claims 5 and 6, Isikoff teaches the beacon transmitting messages from memory when the main computer is powered down (column 6, lines 2-16, and column 9, lines 33-52).

11. With regards to claim 7, the memory stores user profile information regarding what types of files are to be transferred and stored in the memory (column 6, lines 2-16).

12. With regards to claim 9, Isikoff teaches the beacon unit controls the power supply (column 4, lines 15-20, column 2, lines 12-14, and column 9, lines 15-17).

13. With regards to claim 10, While Isikoff does not explicitly teach non-volatile memory; the beacon is battery backed and retains power even when power is removed from the main computer and processor (Figs. 3 and 4). It would have been obvious to one of ordinary skill in the art at the time of invention that the beacon memory of Isikoff is at least battery backed and is therefore nonvolatile.

14. With regards to claim 11, Isikoff teaches that the beacon processor stores data into the memory (column 9, lines 15-32). Flash memory is well known in the art and it would have been obvious to one of ordinary skill in the art at the time of invention that the beacon memory could be a flash memory array.

15. With regards to column 12, Isikoff teaches the host computer being passed data to be processed (column 5, lines 47-51). It would have been obvious to one of ordinary skill in the art at the time of invention that the host processor would be involved in this access.

16. With regards to claims 13 and 14, Isikoff teaches the processor stores in memory user file names and types which are to be transferred (column 6, lines 5-11).

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17. With regards to claims 15 and 16, Isikoff teaches the beacon processor stores user profile information in the memory regarding what types of files are to be transferred and stored in the memory (column 6, lines 2-16). It would have been obvious to one of ordinary skill in the art at the time of invention that either processor could have been used to store user profile identifying information into the memory.

18. With regards to claim 20, Isikoff teaches wireless communication with a modem (Figs. 1 and 3).

### *Conclusion*

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Schneider whose telephone number is (571) 272-4158. The examiner can normally be reached on M-F, 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDS



**KIM HUYNH**  
**PRIMARY EXAMINER**  
6/8/05